App F IX 4

192 .

Previous references ( )

File No 144-24

Serial Nos 13

Later references

GENERAL AND REVENUE SECRETARIAT.

Serial Nos

Part B for 1926

SUBJECT

Making provision for Compounding Municipal offences as Penal offences

papers ordered to be tabled

AS 1926
.8

Administrative matters dealt with by the Committee appointed to revise the Municipal Account Manual.

6. Subject.

Making provision for compounding Municipal ~~offices~~ offences as forest ~~offices~~. offences

Suggestions by Mr. B. Srinivasaingar, Anekal.

Provision should be made to compound Municipal ~~offices~~ offences as forest ~~offices~~. offences

Decision of the Committee.

To be worked up by the Special Officer, L. S. G.

Special Officer's Notes.

~~Provision for compounding offences against the Municipal Regulation was made in a draft bill amending the Municipal~~ for

E.T.D.

Serial No

S

No provision exists in our Municipal Regulation which has been based on the Bombay District Municipalities Act for compounding Municipal offences. In order, however, to give power to Municipal Councils in this behalf especially on account of the trival nature of many of these offences which cause unnecessary trouble to the Municipal Councils and undesirable annoyance to innocent and perhaps ignorant offenders by institution of ~~judicial~~ criminal proceedings in such cases, a ~~provision~~ section (187A) based principally on Section 291 of the Central Provinces Municipal Act was among others made in a draft bill for amending the Municipal Regulation. This bill was found to be required further revision in certain other respects at the last stage and it was withdrawn with a view to introduce a fresh bill.

2. The Section proposed to be introduced in respect of compounding Municipal offences includes a sub-section to the effect that the accused should be discharged if he is in custody when the offence is compounded. On closer examination I think that this provision will not fit in with the ~~frame~~ general framework of the Regulation in force in Mysore. In the Central Provinces Act, a special chapter has been devoted for municipal offences, penalties and procedure and Section 220 of this Act enables Government to invest the Municipal Committees with the powers of the District Magistrate in certain cases while Section 222 authorises officers of the Municipal Committees, in the absence of Police Officers, to arrest offenders in certain cases --

NOTE—Contn sheet

and detain them till their correct name and addressed is ascertained. In the absence of such provisions in our Regulation, it would not be right or expedient to transpose into our Regulation the provisions existing in the Central Provinces Act in respect of compounding Municipal offences.

3. In Bombay, as in Mysore the Regulation provides in Section 165 for ~~compromising~~ appeling a Compromise in respect of civil suits only and Mr. Cumming in his notes on this Section states as follows

" The compound or compromise is only in respect of any suit and not of an offence. Bom. City Act, Section 517 (1), besides providing for the composition of civil suits, (b) authorises the Commissioner to - " compound any offence against this Act, which, under the law at the time in force, may legally be compounded." Section 345 of the Criminal Procedure Code provides for the composition of certain offences under the Penal Code only, and that " no offence shall be compounded, except as provided in this section." As the word offence here means " any act or omission made punishable by any law for the time being in force," it follows, as stated in the 6th column of Schedule II to the Procedure Code, that offences under the Municipal Act are non-compoundable. As all such - offences are triable as summons cases, the municipality may withdraw from the prosecution by non-appearance under Section 247 of the Code, or on application under Section 248."

4. From the above it will be seen that when once

NOTE—Contn sheet

proceedings have been instituted before a Magistrate the offence can be compounded only if it falls under any of the Sections of the Indian Penal Code also which are expressly declared by Section 345 of the Code of Criminal Procedure as compoundable. The main object of the legislation in this respect in Mysore being to obviate the necessity of prosecutions in trivial cases and removing annoyance to ignorant and innocent offenders by following the usual process of prosecutions, I think the requirements of the case could be very well met by simply authorising municipal councils (1) to compromise municipal offences before prosecutions are instituted and (2) to withdraw from prosecution already instituted by filing an application of compromise before the Magistrate.

5. The Section included in the draft bill is so drafted as to indicate that a sum of money has to be recovered by way of composition for Municipal offences. Neither the District Municipalities Act (Section 351) nor the Calcutta Municipal Act (Section 537) specifically include any provision as regards the receipt of any money from the offenders for this purpose. A general provision authorising Municipal Councils or Municipal officers to accept money in such cases is inexpedient and may lead to abuse of the powers or to harassment of the public. I am of opinion that no reference need be made to acceptence of money by Municipal Councils by way of composition of offences. Provision known might make in the rules regarding payment of in respect Composition.

6. Following the provisions of the Madras Distric

NOTE—Cover sheet

Serial No

DEWAN'S OFFICE.
RECD ON 29 JUL 1924
Reg No 8741 -

Municipalities Act and the Calcutta Municipal Act we may add after Section 161 of our Municipal Regulation a new Section to be numbered as Section 161 (A) as shown below.

" 161 A. ~~The~~ Municipal Council may-

Power to compound offences

(a) compromise with any person against whom a reasonable suspicion exists that he has committed an offence punishable under this Regulation or any bye-law thereunder and on such compromise no proceedings shall be taken against such person in respect of such offence;

(b) withdraw from ~~provisions~~ prosecutions instituted under this Regulation or under any bye-law made thereunder.

(c) compound any offence against this Regulation or against any bye-law made thereunder which, under any enactment for the time being in force, may lawfully be compounded

Provided that Government may make rules to regulate the proceedings of persons empowered to compromise offences under this Section. "

If the above proposals are accepted as legally sound, the draft section may be included in the list of amendments.

602
17.7.24

SPECIAL OFFICE
No 477
17 JUL 1924
SELF GOVT BANGALORE

17.7.24 Spl. Officer

(1st Member)

Submitted to Dewan for [illegible] proposals

[illegible]

NOTE—Contn sheet

GENERAL & REVENUE SECRETARIAT
2162
- 3 SEP 1924
LOCAL SELF GOVT BRANCH

G R S III [illegible]

General and Revenue Secretariat

477 1089 P

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Serial No

GENERAL & REVENUE SECRETARIAT
[illegible]
LOCAL SELF GOVT BRANCH

Forwarded with compliments to the Secretary Local Self Govt Deptt. for favour of further action.

M Visvanatha Sastri
1/9/24

Further action has under the recent memo relating to drafting of legislative measures have to be taken in the Legislative Section of the Protection Branch. This will be sent to that Branch

D & L Secy) 2/9 3/9.

Public Do) 1/9 4/9 5/9 4/9

Before a draft Bill is put up in the legislation the question of legislation has to be considered (under the recent memo) in connection with the approval of the Legislature obtained to the proposed legislation

The file may be returned to the L S G Branch for favour of necessary action in the matter

Ec 4/9/24 Regd. perhaps the memo referred to

NOTE—Contn sheet

G R S III 2

General and Revenue Secretariat | File No 477 of 19 | 105

Serial No

Z.P.1

Send me a copy of the memo

SC
5/9/24
hl

Reference as in note of Clerk (Z.P.) vide cl (c)
Perhaps the same Ceiling as heights will have to be retained

Kelly
5/9

1st member -
not necessary - may be taken up along with the proposed municipal amendment of the Regulation.
5.9

Ker
7/9
8/9

As it is understood that the proposed amendments of the municipal Regulation is being drafted by the Special duty officer this may also be sent to him

SC
8/9/24
hl
Kelly
9/9

Special officer
L S G
Seen for favour

Yes
9/9
9-9

NOTE—Contn sheet

Put K.S for note on amendment and instructions
SNS
11.9.24

Seen
11.9

General and Revenue Secretariat | File No | of 19

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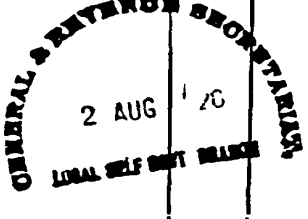
The approved section is incorporated in the Bill now

DS
28/11/26

Necessary provision for compounding Abkari offences has been made in the Abkari Amending Bill of 1926

The papers may be returned to B

DS
27/7/26



LR Rees

DS
30/7

Feb
DS
31

NOTE—Contn Sheet

" After Section 165 of the Regulation, the following new Section shall be added as Section 165 A-

Power to compound offences

165 A. (1) The Government may empower any Municipal Council, or its President. Vice-President or Chief Officer to accept from any person, against whom, a reasonable suspicion exists that he has committed an offence against this Regulation or any rule or bye-law thereunder, a sum of money by way of composition for such offence.

Provided that no offence which also falls under any provisions of the Indian Penal Code shall be compounded otherwise than in accordance with the provisions of Section 345 of the Code of Criminal Procedure.

(2) On payment of such sum of money such person, if in custody shall be discharged and no further proceedings shall be taken against him in regard to the offence or alleged offence so compound-

(3) Sums paid by way of composition under this section shall be credited to the Municipal Fund.

(4) The power under sub-section (1) to compound offences may be given whether generally under this Regulation and the rules and bye-laws thereunder, or particularly in regard only to individual offences of a specified class and may at any time be withdrawn by the Government.

(5) Any sum of money accepted as composition under sub-section (1) shall not exceed the amount of fine fixed for the offence in the Regulation or in any rule or bye-law thereunder or rupees fifty whichever is less.

(6) The Government may make rules to regulate the proceedings of persons empowered to compound offences under this section. "